IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

CRP.No. 183 of 2007()

OPELE.324/2002 of ADDL.D.C. & ADDL.MACT,ALAPPUZHA.

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REVN. PETITIONER: REVISION PETITIONER/IST RESPONDENT

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE,NANGIARKULANGARA,KAYAMKULAM,
REP.BY ITS MANAGER.

BY ADV. SRI.K.P.DANDAPANI (SR.)

RESPONDENTS: RESPONDENT/PETITIONER

KRISHNA PILLAI,S/O.PARAMESWARAN PILLAI,
PULVELIL HOUSE, THAMARAKKULAM VILLAGE,MAVELIKKARA
TALUK.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD A/W C.R.P.NO: 456/07 & CONNECTED CASES ON 11/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NOs. 183, 456, 770
and 771 OF 2007

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Dated this the 11th day of December, 2007.

O R D E R

CRP 183/07 is preferred against the award of the Addl. District Judge, Alappuzha in O.P.(EA)324/02, CRP 456/07 is preferred against O.P.(EA)132/02, CRP 770/07 is preferred against O.P.(EA)196/02 and CRP 771/07 is preferred against O.P.(EA)135/02. In O.P.(EA)324/02 the Court below has awarded an additional compensation of Rs.30,503/- and has relied upon the dictum laid down by this Court in ***Kumba Amma v. K.S.E.B. (2000(1) KLT 542)*** vide paragraph 7. In O.P.(EA)132/02, the Court below has awarded a compensation of Rs.45,172/- basing upon the very same decision, in O.P.(EA)196/02 an amount of Rs.8,222/- is awarded and in O.P.(EA)135/02 an amount of Rs.21,830/- is awarded.

2. So far as CRP 770/07 is concerned a perusal of the award would reveal that the Court has awarded Rs.4,622/-

towards additional compensation for the yielding trees and diminution of land value of Rs.3,600/-. Ext.B1 reveal that three yielding coconut trees were cut which were fruit bearing and therefore the Court considered inadequacy of the compensation and awarded a further amount of R.4,622/- which cannot be said to be on the excess side. So far as the diminution of land value is concerned the Court fixed the land value at Rs.4,000/- per cent which is prevalent in that locality and considering the evidence tendered gave 30% for diminution in land value. Therefore, it is a basic material which has to be followed even in the light of the decision of the Apex Court in 2007 (3) KLT 1. Therefore, C.R.P.770/07 is to be dismissed.

3. So far as other cases are concerned larger amount is involved and the learned counsel would contend that 5% annuity cannot be taken as a uniform standard and the Court has to take into consideration the facts and circumstances of each case in the light of the decision of the Apex Court reported in ***K.S.E.B. v. Livisha (2007 (3) KLT page 1***)

which holds as follows.

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

4. So, in the light of the above principles the matter requires reconsideration and additional documentary as well as oral evidence may have to be produced for a proper trial and disposal of the case. Therefore, the awards impugned, i.e., O.P.(E.A.)Nos. 324, 132 and 135 of 2002 are set aside and remitted back to the Court below for fresh consideration in the light of the above principles after affording equal

opportunities to both the sides to adduce evidence and further C.R.P.770/07 stands dismissed. In the other cases the parties are directed to appear before the Court below on 22.1.2008.

The C.R.Ps. are disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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